

DISCUSSION

I. The names of nonparties should be protected from negative public attention

Although there is a presumption in favor of openness in court records, the Sixth Circuit has recognized that sealing court records may nevertheless be appropriate in certain circumstances. *Shane Grp., Inc. v. Blue Cross Blue Shield of Mich.*, 825 F.3d 299, 305 (6th Cir. 2016).

In determining the appropriateness of sealing court records under this exception, the Court must consider, amongst other things, the privacy rights of participants or third parties. *See id.*; *Nixon v. Warner Commc'ns, Inc.*, 435 U.S. 589, 598 (1978). “[T]rial courts have always been afforded the power to seal their records when interests of privacy outweigh the public’s right to know.” *In re Knoxville News-Sentinel Co.*, 723 F.2d 470, 474 (6th Cir. 1983). The proponent for sealing must analyze each document in detail, explaining the propriety and need for secrecy. *Shane Grp.*, 825 F.3d at 305-06 (citation omitted).

The name of the social worker from whom Plaintiffs seek to compel production of records should be kept under seal because she is a nonparty with no involvement in this lawsuit. If her identity is disclosed, she could be subject to harassment. Her right to privacy greatly outweighs the public’s interest in her identity.

Additionally, the identity of the nonparty who is also the subject of Plaintiffs’ pending motion for protective order should also be maintained under seal. The Court has already previously granted requests to seal briefing on Plaintiffs’ motion for

protective order. (ECF No. 209.) The subject matter of that nonparty's expected testimony is highly sensitive, and the public has no legitimate interest in the nonparty's identity. That nonparty's name only appears in the excerpts of David Sills's deposition attached as Exhibit 4 to Lyell's Response. So, both a redacted and unredacted copy of Exhibit 4 has been filed under seal.

For the foregoing reasons, Lyell respectfully requests that the identities of these individuals be maintained under seal to avoid harassment, embarrassment, and negative public attention as a result of a lawsuit to which neither is a party.

II. Plaintiffs never designated any portion of the deposition transcript as confidential under the protective order

The Agreed Protective Order allows a party to designate any portion of a deposition transcript as confidential subject to the following procedure:

A party or third party may, on the record of a deposition or by written notice to opposing counsel not later than thirty (30) days after receipt of the deposition transcript, designate any portion(s) of the deposition as Confidential or Highly Confidential – Attorneys' Eyes Only based on a good faith determination that any portion(s) so designated constitute(s) Confidential Information or Highly Confidential – Attorneys' Eyes Only Information.

(ECF No. 132-1 at ¶ 8.)

Neither Lyell nor Lyell's counsel has any record indicating that Plaintiffs ever designated as confidential the excerpts of David Sills's deposition attached as Exhibit 4 to Lyell's response. Out of an abundance of caution, however, Lyell is operating under Local Rule 5.03(d) and Paragraph 5 of the Protective Order to allow Plaintiffs to demonstrate whether the deposition transcript excerpts were designated

confidential and whether the deposition transcript excerpts should be filed under seal.

CONCLUSION

For the foregoing reasons, Lyell respectfully requests that the Court enter an order granting her leave to keep under seal the identities of nonparties to this case.

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CERTIFICATE OF SERVICE

I hereby certify that on this the 20th day of May 2025, the foregoing was served via the court's electronic filing system on the following counsel of record:

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